

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LG ELECTRONICS MOBILECOMM
U.S.A., INC. et al.,

Plaintiffs,

v.

HUANG XIAOWEN doing business as
TOP UUSHOP, et al.,

Defendants.

Case No.: 3:16-cv-01162-JLS-NLS

**NOTICE AND ORDER SETTING IN-
PERSON SETTLEMENT
CONFERENCE WITH PLAINTIFFS,
DEFENDANT BESTCOM
WIRELESS NETWORK, INC., AND
DEFENDANT N&K TRADING, INC.**

**To Plaintiffs, Defendant Bestcom Wireless Network, Inc., and Defendant
N&K Trading, Inc.:**

IT IS ORDERED that an in-person settlement conference of your case will be held
on **November 2, 2016** at **2:30 p.m.** in the Chambers of Magistrate Judge Nita L. Stormes,
United States Carter-Keep Courthouse, 333 West Broadway, Suite 1210, San Diego,
California 92101.

The following are **mandatory** guidelines for preparing for the settlement
conference.

1. **Purpose of Conference:** The purpose of the conference is to permit an
informal discussion between the attorneys, parties, and the settlement judge of every

1 aspect of the lawsuit in an effort to achieve an early resolution of the case. All
 2 conference discussions will be informal, off the record, privileged and confidential.
 3 Counsel for any non-English speaking parties is responsible for arranging for the
 4 appearance of an interpreter at the conference.

5 2. **Personal Appearance of Parties Is Required:** All parties, adjusters for
 6 insured defendants, and other representatives of a party having full and complete
 7 authority to enter into a binding settlement, and the principal attorneys responsible for the
 8 litigation, must be present **in person** and legally and factually prepared to discuss
 9 settlement of the case. Full authority to settle means that the individuals at the
 10 conference be authorized to fully explore settlement options and to agree at that time to
 11 any settlement terms acceptable to the parties. *Heileman Brewing Co., Inc. v. Joseph Oat*
 12 *Corp.*, 871 F.2d 648, 653 (7th Cir. 1989). The person needs to have “unfettered
 13 discretion and authority” to change the settlement position of a party. *Pitman v. Brinker*
 14 *Int’l, Inc.*, 216 F.R.D. 481, 485-486 (D. Ariz. 2003). One of the purposes of requiring a
 15 person with unlimited settlement authority to attend the conference is that the person’s
 16 view of the case may be altered during the face-to-face conference. *Pitman*, 216 F.R.D.
 17 at 486. Limited or sum certain authority is not adequate. *Nick v. Morgan’s Foods, Inc.*,
 18 270 F.3d 590, 595-597 (8th Cir. 2001). **Counsel appearing without their clients**
 19 **(whether or not counsel has been given settlement authority) will be cause for**
 20 **immediate imposition of sanctions and will also result in the immediate termination**
 21 **of the conference.**

22 3. **Full Settlement Authority Required:** In addition to counsel who will try
 23 the case, a party or party representative with **full settlement authority** must be present
 24 for the conference. In the case of a corporate entity, an authorized representative of the
 25 corporation who is **not** retained outside counsel must be present and must have
 26 discretionary authority to commit the company to pay an amount up to the amount of the
 27 plaintiff’s prayer (excluding punitive damage prayers). The purpose of this requirement
 28 is to have representatives present who can settle the case during the course of the

1 conference without consulting a superior. Counsel for a government entity may be
2 excused from this requirement so long as the government attorney who attends the
3 conference (1) has primary responsibility for handling the case; and (2) may negotiate
4 settlement offers which the attorney is willing to recommend to the government official
5 having ultimate settlement authority.

6 Questions regarding this case or the mandatory guidelines set forth herein may be
7 directed to the Magistrate Judge's law clerks at (619) 557-5391. In the interim, if the
8 parties' continued settlement discussions result in settling this matter before the
9 November 2nd conference, they must notify the undersigned's chambers.

10 **IT IS SO ORDERED.**

11 Dated: September 8, 2016

A handwritten signature in black ink, reading "Nita L. Stormes", is written over a horizontal line.

Hon. Nita L. Stormes
United States Magistrate Judge